



U.S. Immigration
and Customs
Enforcement

December 9, 2011

MICHAEL MORISY
MUCKROCK NEWS
P.O. BOX 55819 DEPT. MR 948
BOSTON, MA 02205

Re: 2012FOIA3204

Dear Mr. Morisy:

This acknowledges receipt of your December 1, 2011, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for any manuals, documents or other written guidance used to access or analyze data gathered by programs developed or deployed by Carrier IQ. Please query any departments or groups that routinely work with mobile and wireless carriers in monitoring, deciphering, intercepting or otherwise accessing electronic communications. Your request was received in this office on December 9, 2011.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1348 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2012FOIA3204**. Please refer to this identifier in any future correspondence. You may contact this office at (202) 732-0600 or (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catrina M. Pavlik-Keenan', with a long horizontal flourish extending to the right.

Catrina M. Pavlik-Keenan
FOIA Officer



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Dear Mr. Morisy:

This acknowledges receipt of your December 1, 2011 Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), seeking any manuals, documents or other written guidance used to access or analyze data gathered by programs developed or deployed by Carrier IQ. Please query any departments or groups that routinely work with mobile and wireless carriers in monitoring, deciphering, intercepting or otherwise accessing electronic communications. Your request was received in this office on December 9, 2011.

As it relates to your request for expedited treatment, your request is denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(d)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(d)(1)(ii). Requesters that seek expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(d)(3).

Your request for expedited processing is denied because you do not qualify for either category. You failed to demonstrate a particular urgency to inform the public about the government activity involved in the request beyond the public's right to know about government activity generally. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

If you deem the decision to deny expedited treatment of your request an adverse determination, you may exercise your appeal rights. Should you wish to do so, you must send your appeal and a copy

of this letter within 60 days of receipt of this letter to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and letter should be marked "Freedom of Information Act Appeal." Copies of the DHS regulations are available at: www.dhs.gov/foia.

We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate component of ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2012FOIA3204**. Please refer to this identifier in any future correspondence. You may contact this office at (202) 732-0600 or (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

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Catrina M. Pavlik-Keenan
FOIA Officer



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December 9, 2011

MICHAEL MORISY
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P.O. BOX 55819 DEPT. MR 948
BOSTON, MA 02205

Re: 2012FOIA3204

Dear Mr. Morisy:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the U.S. Immigration and Customs Enforcement (ICE), dated December 1, 2011, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on December 9, 2011. Specifically, you requested any manuals, documents or other written guidance used to access or analyze data gathered by programs developed or deployed by Carrier IQ. Please query any departments or groups that routinely work with mobile and wireless carriers in monitoring, deciphering, intercepting or otherwise accessing electronic communications.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1348 open requests ahead of yours.

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that MUCKROCK NEWS is entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requestor has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requestor, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your December 1, 2011 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient because your request fails to meet factors 3, 4, 5, and 6. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requestors. As a non-commercial requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

You have the right to appeal the determination to deny your fee waiver request. Should you wish to do so, you must **send your appeal within 60 days of the date of this letter to:** Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and letter should be marked "Freedom of Information Act Appeal." The implementing Department regulations establish the criteria under which the FOIA is administered. Copies of the FOIA and regulations are available at www.DHS.gov.

Your request has been assigned reference number **2012FOIA3204**. Please refer to this identifier in any future correspondence. If you have any questions, or would like to discuss this matter, please feel free to contact this office at (202) 732-0600 or (866) 633-1182.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer